

OBAMACARE'S EFFECTS ON SMALL BUSINESSES

FIELD HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS

AND ENTREPRENEURSHIP

UNITED STATES SENATE

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

JANUARY 15, 2015

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OBAMACARE'S EFFECTS ON SMALL BUSINESSES

THURSDAY, JANUARY 15, 2015

BOSSIER PARISH COMMUNITY
COLLEGE THEATER,
Bossier City, LA.

The Committee met, pursuant to notice, at 1:30 p.m., at Bossier Parish Community College Theater, 6220 East Texas St., Hon. David Vitter, Chairman of the Committee, presiding.

Present: Senator Vitter.

OPENING STATEMENT OF HON. DAVID VITTER, CHAIRMAN, AND A U.S. SENATOR FROM LOUISIANA

Chairman VITTER. As I promised, let's now move on to our panel. I'm really, really honored that these four representatives of small businesses and consultants to small businesses in Northwest Louisiana could join us. And they're going to provide insight into the small business experience under ObamaCare. Let me also mention, before I introduce them, that I had also invited as chair of the small business committee, two folks from the Federal Government who are directly involved in Washington's exemption from ObamaCare to talk about that. They declined. They refused to come and testify. We're going to follow up in the future including with subpoenas if we need to. But I did invite them as witnesses as well. They refused.

So let me introduce our small business panel. I'll introduce all four and then they will present their testimony and observation in order. First Hedy Hebert. Hedy is a partner and consultant with Benefit Consultant Services in Bossier City. She works with large and small employer groups who provide employee benefits and coverage in such areas as group health life, dental, disability and long-term insurance.

Next will be Debbie Martin. Debbie is the president of the North Shreveport Business Association. Of course, the mission of that important association is to educate, inform and provide beneficial services to members in those businesses who represent, promote and support the business community of North Shreveport. That organization supports educational needs in area and neighborhood schools, annual activities supporting police, fire and sheriff's departments, legislative advocacy and much more.

We also have David Scruggs with us. David is controller of Kenyan Companies; and as controller David is responsible for the financial reporting, financing needs, financial forecasting and compliance of all Kenyan Companies. That's probably better known to

you as the company that operates Piggly Wiggly and Save-A-Lot Grocery Stores in several states, including this area in Louisiana.

And finally Brenda Little. Brenda has had various job duties and responsibilities at Jean Simpson Personnel Service for 19 years, working with the largest staffing agency in Shreveport-Bossier. She's counseled employees on their careers, recruited candidates for career opportunities and provided customer service to over 2,000 customers. In addition to this, Brenda's duties have been expanded to include Healthcare administrator with the task of devising a plan to track and report ObamaCare information and mandated reporting. And I know that's a big, big new burden and responsibility for Brenda.

So, again, thanks to all of you for being here, and we'll go in the order I just introduced you, starting with Hedy.

[The prepared statement of Chairman Vitter follows:]

CHAIRMAN VITTER OPENING STATEMENT

Good afternoon and thank you for joining me today for today's town hall and for the Senate Small Business Committee's field hearing to discuss Obamacare's impact on small business.

In my new role as Chairman of the Senate Committee on Small Business and Entrepreneurship, I will make important efforts to lend small businesses a larger voice to Congress, and shape policies that will grow our energy industry, get rid of the government impediments to growth, reduce the tax burden on small businesses, and of course, repeal and replace Obamacare. Today's discussion will focus on the many struggles small businesses face in navigating Obamacare, and how Congress has avoided these negative consequences of the law by giving themselves an exemption.

Obamacare's statute clearly states in Section 1312 that, "the only health plans that the Federal Government may make available to Members of Congress and congressional staff with respect to their service as a Member of Congress or congressional staff are health plans that are created under [the] Act or offered through an Exchange established under [the] Act." This was an effort to ensure Congress experienced all of the implications of Obamacare in the same way their constituents do.

That is why I introduced legislation that simply restores the rule of law and says that Congress will live under the same rules, and experience the in the same way as their constituents. My "No Exemptions" bill specifically:

1. Clarifies that Members of Congress do not have the authority to define "official staff" and can thereby not exempt any of their staff from going into the Obamacare Exchange.
2. Requires all Members of Congress, all Congressional staff, the President, Vice-President, and all political appointees within their administration to purchase their health insurance on the Obamacare Exchange and will receive the same amount of financial support from tax credits or subsidies as they would outside of Washington.
3. And prohibits Members, political appointees, President and Vice President from receiving tax-payer funded contributions in the form of subsidies, tax credits, or employer contribution to purchase insurance on the exchange- as in most of these cases they earn well above the maximum income (\$46,000 individual/\$92,000 family) and would otherwise be ineligible for subsidies or tax credits as defined in the statute.

However, on August 2, 2013, the Office of Personnel Management issued a rule that made mockery of the law and exempted Congress by 1) allowing Members and their staff to receive an illegal subsidy offered to no other American at their income level; 2) allowed Members to deem their staff as "unofficial" in order to avoid Obamacare altogether and stay on their very generous, and highly subsidized health plans on the Federal Employee Health Benefits Program (FEHBP).

On December 12 2014, I invited two federal witnesses; 1) Director of the Office of Personnel Management (OPM), Katherine Archuleta, and 2) Assistant Secretary for Tax Policy at the

Department of Treasury, Mark Mazur. Unfortunately both Director Archuleta and Assistant Secretary Mazur have declined our invitation.

While I am disappointed these federal officials declined our invitation, I will continue to seek answers to my questions regarding Congress's special treatment under the health care law, and end Washington's exemption from Obamacare.

I would also like to welcome and introduce our four witnesses, who are all business leaders in the Shreveport community.

1. Hedy Hebert (Bossier City), Partner at Benefits Consulting
2. Debbie Martin (Shreveport), President of North Shreveport Business Association
3. David Scruggs (Springhill), Chief Operating Officer of Piggly Wiggly and Save A Lot Grocery Stores
4. Brenda Little (Shreveport), Health Care Administrator at Jean Simpson Personnel Services

Navigating excessive regulations from multiple federal agencies, increased taxes, and higher costs while continuing to provide quality services to your customers and growing your business, is no small task. I appreciate you taking time away from your businesses to share your experiences in dealing with Obamacare and look forward to your testimony.

Unfortunately, we will hear the same message that small businesses have been trying to tell their elected officials for almost five years now. Obamacare's burden on small businesses can be summed up in one comment I heard from a local leader, "For the first time small businesses are trying **not** to grow."

Because Congress is exempted from the law, it is difficult for them to understand the daily struggles small businesses in their states and districts now face.

Examples of the key differences between how Congress is treated under Obamacare versus the rest of America are:

1. **Small businesses have limited access to financial assistance.**
 - In 2014 a temporary, two-year, small business tax credit was made available for small businesses with 10 or fewer employees. For firms with 11 to 25 employees, the credit is reduced. Firms with more than 25 employees are ineligible for the credit.
 - However, Congress who employs 16,000 workers receives a subsidy covering 75 percent of their health premiums- an amount offered to no other American at their income level.
2. **Small businesses have limited health care options for workers on SHOP Exchange.**
 - In March 2013, HHS announced that the federal SHOP Exchange would not be offering employees a choice of plans or offering employers premium aggregation

during 2014. Employers would only be able to offer their employees a single plan through the SHOP exchange for the first year. Louisiana is among the states with a Federally-facilitated (FF) SHOP Exchange that only offers employees a single qualified health plan option.

- Members and “official staff” who purchased health insurance through the DC SHOP Exchange had 196 different policy options for health insurance.

3. 30-hour work week requirement is killing jobs and impeding growth

- In order to force more employers to provide full health coverage for their workers, the Department of Labor changed America’s definition of “full-time worker” to an employee that works an average of 130 hours a month or 30 hours per week.
- Starting in 2015, employers with 100 or more full time workers will be subject to the employer mandate using 2014 workforce data. In 2016, employers with 50 or more workers will be subject to the employer mandate using 2015 workforce data.
- This means that large and small businesses will have to keep these calculations throughout the year on a monthly basis to determine whether or not they will be subject to the employer mandate next year.
- As a result half of small business owners polled by the U.S. Chamber of Commerce indicated they would either cut employee hours or employ fewer full-time workers to avoid Obamacare’s requirement that employees working over 30 hours a week receive employer-sponsored health insurance.
- The American Action Forum study also indicated significant wage losses for employees as a result of the 30 hour work week regulation. In Louisiana workers in businesses with 50-99 workers experienced an average loss of \$394.19 in 2014.
- As Chairman of the Small Business Committee and lead co-author of the “40 Hours is Full Time Act,” I will work to repeal the 30-hour rule and relieve small businesses from the job-killing regulation.

The Affordable Care Act remains one of the biggest impediments to job creation and economic growth, and I am committed to repealing and replacing it with something that works for the American people. Small businesses should be empowered to innovate, grow their businesses, hire more workers, and achieve the American dream. Unfortunately, that is not the case under Obamacare. I will continue to seek answers to my questions regarding Congress’ special treatment under the health care law, and will work to end Washington’s exemption from Obamacare. In the meantime, it is certainly very important to hear directly from those small businesses who have to live with Obamacare without Congress’ special exemption.

Thank you for being here today and I look forward to hearing from our witnesses.

**STATEMENT OF HEDY HEBERT, PARTNER, BENEFIT
CONSULTING SERVICES, BOSSIER CITY, LA**

Ms. HEBERT. Good afternoon. Senator Vitter, thank you for the opportunity to be with you this afternoon and other distinguished business owner and community leaders as we discuss the many struggles small businesses face in navigating the healthcare law. Because Congress is exempted from healthcare reform law, it is difficult for many of their members to fully understand the daily struggles our business owners now face. Again, my name is Hedy Hebert, Partner with Benefit Consulting Services right here in Bossier City. Our company provides employee benefit consultation services for many local businesses, particularly for group health insurance. For many years healthcare costs have been increasing and we have worked hard to provide sensible solutions for our clients.

As a past president of the Bossier Chamber of Commerce, I have listened to the struggles that many businesses have faced for years as they have tried to find a way to offer a competitive benefit package to their employees. Our company has also worked with the Greater Shreveport Chamber of Commerce, and many of their members have expressed the same concerns. The Affordable Care Act did not address the main problem most businesses previously faced, and that was "cost." Many of these businesses were in favor of changes that would eliminate pre-existing conditions, and they also were in favor of having the opportunity to purchase insurance at lower rates with more choices as some of the larger employers were able to do.

When the definition of full-time hours was changed from 40 to 30, this increased the burden to have to offer insurance to even more employees, which would increase the healthcare costs again. There are many unintended consequences in the Affordable Care Act. One of them is that now many employers are changing their employees' hours to 29 to avoid having to offer benefits. One of my physician office clients told me they would not grow, and definitely would never have 50 employees.

There are also many negative effects of the Affordable Care Act:

1. Rising healthcare costs.
2. Limitations on the employer's expansion opportunities.
3. Employer mandates.
4. IRS reporting requirements.
5. Higher deductible plans make it difficult for employees to be able to use the coverage.
6. Increased Department of Labor audits.
7. Moving from grandfathered plans to non-grandfathered plans changes the rated mechanism to age rated instead of composite rates. This increases the rates for the younger employees. It also significantly impacts the family rate by charging for each child individually now.
8. Tax increases.
9. Increased regulation.
10. Tax credits are not working for most employers. In order to receive credits, they must be in the SHOP Exchange, and at present, there aren't many options as they vary from State to State.

When the employer mandate for large employers was postponed by the Federal Government, many employees that had never been offered coverage signed up for the Market Place in the Government Exchange. When these same employers complied with the law and offered coverage in January of this year, those employees receiving this subsidy were no longer eligible for it—unintended consequences. There is a lot of confusion, however, because many individuals have been told by Healthcare.gov that they are still eligible to receive the subsidy. Even though there is an individual mandate to purchase insurance, many people still plan to take their chances with the penalty, because they know they can still access the emergency room for treatment.

Another problem that employers are also facing is the delay to get their groups set up with the insurance carriers. The back-log is tremendous because of all the mandates that the insurance carriers also experience.

If the members of Congress were not exempt from the Affordable Care Act, and if any of them owned a small company, they would have a better appreciation of what our businesses face on a daily basis. They would also have a better understanding as to why there is so much confusion in our country right now. A young fireman's family rate for insurance increased from \$1,300 per month to \$1,679. The only way to lower his rate is to continually decrease his benefits.

Thank you again for the opportunity to share some of the problems our clients are experiencing. We appreciate your interest in helping these employers and will be glad to help at any time.

[Applause].

[The prepared statement of Ms. Hebert follows:]

Written Testimony of Hedy Hebert

Partner, Benefit Consulting Services

Bossier City, Louisiana

**Past President – Louisiana Association of Health Underwriters and The
Bossier Chamber of Commerce**

January 12, 2015

U.S. Senate Committee on Small Business and Entrepreneurship

**“The Effects of the Affordable Care Act on Small Businesses and How
Congress is Exempted from the Law”**

Senator Vitter,

Thank you for this opportunity to be with you and other distinguished business owners and community leaders as we discuss the many struggles small businesses face in navigating the health care law. Because Congress is exempted from the healthcare reform law, it is difficult for many of their members to fully understand the daily struggles our business owners now face.

My name is Hedy Hebert, Partner with Benefit Consulting Services in Bossier City, La. Our company provides employee benefit consultation services for many local businesses, particularly for their group health insurance. For many years, health care costs have been increasing, and we have worked hard to provide sensible solutions for our clients.

As a Past President of the Bossier Chamber of Commerce, I have listened to the struggles that many businesses have faced for years as they tried to find a way to offer a competitive benefit package for their employees. Our company has also worked with the Greater Shreveport Chamber of Commerce, and many of their members have expressed the same concerns. The Affordable Care Act did not address the main problem most businesses previously faced, and that was “cost.” Many of these businesses were in favor of changes that would eliminate pre-existing conditions, and they also were in favor of having the opportunity to purchase insurance at lower rates with more choices as some of the larger employers were able to do.

When the definition of full time hours was changed from 40 to 30, this increased the burden to now have to offer insurance to more employees, which would increase the healthcare costs again. There are many unintended consequences in the Affordable

Care Act. One of them is that now many employers are changing their employee's hours to 29 to avoid having to offer benefits. One of my physician office clients told me they would not grow, and definitely would never have 50 employees.

There are many negative effects of the Affordable Care Act:

1. Rising healthcare costs
2. Limitations on the employer's expansion opportunities
3. Employer mandates
4. IRS Reporting Requirements
5. Higher deductible plans make it difficult for employees to be able to use the coverage
6. Increased Department of Labor Audits
7. Moving from Grandfathered plans to Non-Grandfathered plans changes the rating mechanism to age rated instead of composite rates. This increases the rates for the younger employees. It also significantly impacts the family rate by charging for each child individually.
8. Tax increases
9. Increased regulations
10. Tax credits are not working for most employers. In order to receive credits, they must be in the SHOP exchange, and at present, there aren't many options as they vary State by State.

When the Employer Mandate for large employers was postponed by the Federal Government, many employees that had never been offered coverage signed up for the Market Place in the Government Exchange. When those same employers complied with the law and offered coverage in January, 2015, those employees receiving a subsidy were no longer eligible for it. There is a lot of confusion, however, because many individuals have been told by Healthcare.gov that they are still eligible to receive the subsidy. Even though there is an individual mandate to purchase insurance, many people still plan to take their chances with the penalty, because they know they can still access the Emergency Room for treatment.

Another problem that employers are also facing is the delay to get their groups set up with the insurance carriers. The back-log is tremendous, because of all the mandates that the insurance carriers also experience.

If the members of Congress were not exempt from the Affordable Care Act, and if any of them owned a small company, they would have a better appreciation of what our businesses face on a daily basis. They would also have a better understanding as to why there is so much confusion in our country right now. A young fireman's family rate for insurance increased from \$1,300 per month to \$1,679. The only way to lower his rate is to continually decrease the benefits.

Thank you again for the opportunity to share some of the problems our clients are experiencing. We appreciate your interest in helping these employers and will be glad to help at any time.

Chairman VITTER. Thank you very much.
Now Debbie Martin.

**STATEMENT OF DEBBIE MARTIN, PRESIDENT, NORTH
SHREVEPORT BUSINESS ASSOCIATION, SHREVEPORT, LA**

Ms. MARTIN. Thank you again, Senator Vitter, for the invitation.
Chairman VITTER. Sure.

Ms. MARTIN. I've had numerous opportunities to visit with business owners regarding the impact and negative consequences of ObamaCare to their businesses. There are over 650 business in the North Shreveport area. In an effort to assist our members to better understand ObamaCare, our association has provided guest speakers familiar with the law and the impact it will have on the business community. What I have observed after each speaker concluded their presentation is that our members were so confused, they were unable to ask question.

Many businesses have told me they had to eliminate expansion plans, reduce the hours of full-time employees and eliminate annual bonuses in order to remain competitive and profitable. The most painful scenario occurs when employers are making decisions that affect employees that have been with them for many, many years.

I spoke with a businessman recently who informed me his Blue Cross Blue Shield premium one year ago was \$280 a month and his deductible was \$1,000. His new coverage to comply with ObamaCare would cost him more than \$600 per month and the deductible went up to \$5,000. This gentleman is a 60-year-old male that now has to carry maternity benefits and pediatric dentistry. He's self-employed and simply cannot afford it. He opted to pay the fine.

Another large employer shared that they have spent endless hours cutting employee hours in order to stay below the 30-hour threshold. Most of these employees took a second job to make ends meet, and now they're having their hours reduced. These employees did not ask for benefits, but a few hours just to pay their bills.

One business stated, in order to survive, they've eliminated all full-time employees through attrition and will not hire any additional full-time employees. Another business had said, in order to keep up with the information required to meet the guidelines, it will require 40 hours per week to complete.

And lastly, I have experienced, after speaking with several small business owners, they're afraid to speak publicly in fear that their business will be negatively targeted.

Thank you.

[Applause].

[The prepared statement of Ms. Martin follows:]

As the Immediate Past President of the North Shreveport Business Association, I have had numerous opportunities to visit with business owners regarding the impact and negative consequences of Obamacare to their businesses. There are over six hundred and fifty (650) businesses in North Shreveport.

In an effort to assist our members to better understand Obamacare, our association has provided guest speakers familiar with this law and the impact it will have on the business community. What I have observed after each speaker concluded their presentation is that our members were so confused they were unable to ask questions.

Many businesses have told me they have had to eliminate expansion plans, reduce the hours of full-time employees and eliminate annual bonuses in order to remain competitive and profitable. The most painful scenario occurs when employers are making decisions that affect employees that have been with them for many years.

I spoke with a businessman recently that informed me his Blue Cross Blue Shield premium one year ago was \$280.00 per month and his deductible was \$1,000.00. His new coverage to comply with Obamacare would cost him more than \$600.00 per month and his deductible was over \$5,000.00. This gentleman is a 60 year old male that now has to carry maternity benefits and pediatric dentistry. He is self-employed and simply could not afford the premium. He opted to pay the fine.

Another large employer shared that they have spent endless hours cutting employee hours in order to stay below the thirty (30) hour threshold. Most of these employees took a second job to make ends meet and now have had their hours reduced. These employees did not ask for benefits, but a few hours to pay their bills.

One business stated in order to survive; they have eliminated all full time employees through attrition and will not hire any additional full-time employees. Another business stated in order to keep up with the information required to meet the guidelines for Obamacare, it would require forty (40) hours per week to complete.

I have experienced recently after speaking with several small business owners, that they are afraid to speak publically in fear their business will be targeted.

Debbie Martin
North Shreveport Business Association

Chairman VITTER. Thank you, Debbie, for your testimony and for being here.

Now, David Scruggs.

**STATEMENT OF DAVID SCRUGGS, COO, PIGGLY WIGGLY AND
SAVE-A-LOT GROCERY STORES, SPRINGHILL, LA**

Mr. SCRUGGS. Thank you, Senator. And I appreciate that last comment. When you're dealing with retail, that's exactly what you're worried about.

Our company, Kenyan Companies, we own and operate 17 grocery stores. We have 4 Piggly Wigglys and 13 Save-A-Lots. We're in four states and we have over 400 employees. The one thing at Kenyan Companies, we've always prided ourselves on our employee benefit program and what we offered our employees. And as an added benefit to them, our company has historically paid 66 percent of their healthcare premiums. Now we have the Affordable Care Act, ObamaCare, telling us that we have to offer health benefits to twice the number of employees and that we have to cover even more of the cost, a cost that is not shared by the Federal Government, the health insurance companies or that we will pass on to employees. This is a Government mandated cost increase that is to be paid directly by our company.

In 2014 our Group Health Plan covered 63 employees, their spouses and their children. Under this plan, our company paid 66 percent of the cost, or \$449,000.

For 2015, after going through all the rules applying this 9.5% affordability calculation to our lowest eligible 30-hour employee, it was calculated that we could only charge our employees \$90 a month for healthcare or for health insurance, and now we must include every employee above 30 hours and to our eligible group. Therefore, for 2015, our Group Health Plan will now cover 151 employees, their spouses and their children. The increase in the number of employees covered is a direct result of ObamaCare, because they require that each individual have health insurance or face penalties. What this has done to our company is it has moved our expense numbers from 66% to 81.5%, the premiums, for each employee. Our new projected cost for this year is going to be \$899,000. That's an increase through our company of \$450,000. This is more than 30% of what we were able to put on our bottom line last year. Since the Administration has assumed the authority to make decisions on how we are to spend our money, I think they ought to provide us with the solution to minimize the effect of it. Now our company is going to be forced to make many difficult decisions this next year on how to cover this tremendously increased cost. And unfortunately, one of them will be changes in our hiring practices. We will no longer hire someone coming in right off the bat at full time. All of our new hires unfortunately will come in at 25 hours a week, then we will pick the most potential employee and move them to 35 hours a week. We will avoid the 30-hour threshold. Thank you.

[Applause].

[The prepared statement of Mr. Scruggs follows:]

Senate Committee on Small Business and Entrepreneurship

Testimony for the Field Hearing on
The Effects of the Affordable Care Act (ObamaCare) on Small Businesses

Submitted by:
David M. Scruggs
Controller
Kenyan Companies

The core business of Kenyan Companies is the owning and operating of Conventional and Limited Assortment Grocery Stores. We have 4 companies that own and operate 17 stores in 4 states with over 400 employees. We have always been proud of the benefit programs made available to our employees. We have consistently paid 66% of our Health Insurance premiums as an added benefit to our employees.

Now, we have ObamaCare telling us we must offer our Health benefits to twice the number of employees and we must cover even more of the cost. A cost that is not shared by our Federal Government, or the Health Insurance Companies, or passed on to our employees. This is Government mandated cost increase to be paid directly by our Company.

In 2014 our Group Health Plan covered 63 employees, their spouses and children. Under this plan, our company paid 66% of the cost or approximately \$449,750.00.

For 2015, after applying the 9.5% affordability calculation to our lowest eligible 30 hour employee, it was calculated the we could only charge our employees \$90.00 a month for Health Insurance and we must now include employees working an average 30 hours or more a week to our eligible group. Therefore, for 2015, our Group Health Plan will cover 151 employees, their spouses and children. The increase in the number of employees covered is a direct result of the ObamaCare requirement for individuals to have Health Insurance or face penalties. Our company will have to pay 81.53% of the premiums for each employee. The new projected cost to our company is approximately \$899,580.00.

This results in an increased expense, to Our Company, of \$449,830.00. This is more than 30% of our 2014 bottom line. Since the Administration has assumed the authority to make decisions on how we are to spend our money, they need to provide us with the solution of how to cover the increased cost. Now, our company will be forced to make many difficult business decisions to minimize the effect of this dramatically increased expense. One of which will result in a change of our hiring practices.

Chairman VITTER. Thank you, Mr. Scruggs.
Then finally Brenda Little. Brenda.

STATEMENT OF BRENDA LITTLE, HEALTHCARE ADMINISTRATOR, JEAN SIMPSON PERSONNEL SERVICES, INC., SHREVEPORT, LA

Ms. LITTLE. Thank you for letting me be here as well.

Chairman VITTER. Sure.

Ms. LITTLE. The reason Affordable Care Act has impacted our business greatly in numerous ways, as well as our customers that we provide staffing for in a negative manner by the numerous extra costs it forces our company to bear along with our customers. Keeping up with all the information that is ever changing and evolving as the legislation concerning all of the ObamaCare regulations is revealed has required us to create a 40-plus hour a week position to do so. There are so many variables with the legislation, it makes it extremely difficult and confusing to keep up with and to lay out a doable plan for tracking. Also, to have in place some sort of checks and balances to prevent employees from slipping through the cracks where there are gray areas. It is all confusing for us, which makes it more difficult to explain to our employees, which are primarily made up of the blue collar working class that mostly barely have a high school education. In the staffing business, an employee's status can be ever changing, so keeping up with whether an employee is a variable, non-variable, part-time or a seasonable employee when it can change repeatedly throughout their duration with us as an employee is a huge challenge and takes constant monitoring. You have measurement periods to track, administrative periods, stability periods, and also breaks in service that all have to be monitored.

One of the most confusing things that is a huge part of this legislation is calculating what is considered your "FTE's", or your (Full Time Equivalent) employees. Most businesses assume that they are safe because they have part-time workers. But in all actuality, if the company has enough part-time workers, they may be vulnerable to a fine due to the way that the employer's FTE's are actually figured. They are figured on hours worked, not necessarily the number of employees you employ. The calculations can be overwhelming.

In the staffing business, we do not always know if a person is going to be working 30-plus hours per week. Employees, as a part of their continuing employment, can reject assignments, typically work 40 hours more per week on assignments of less than 13 weeks, and typically have periods where no assignments are available. We have anywhere from 600 to 800 employees on our payroll on a weekly basis, not always the same employees. Someone has to track all of this. Very little easily understood information and/or guidelines have been provided along with this legislation to employers. We have to figure out our own tracking methods and hope that we are able to provide all the information that is to be required when it comes time to report all of this, which will be a lot more hours that someone within our company will have to spend to compile. We are offering a wellness plan, which is what gets us over the "A" tax. This only leaves us vulnerable to the "B" tax if

someone actually qualifies and receives a subsidy. We have been forced to learn, know, and understand healthcare insurance. We also have to allow time to explain to our employees the insurance offered to them, when their main concern is primarily to find employment. The wellness plan that we offer costs \$65.28 per month for an employee only. So a person earning \$8 an hour will have to work a little over 8 hours to pay for this before they are able to earn any money to provide for their self. This is a total of \$783.36 per year, which is a much greater amount than what someone's wellness visit should be. When, if they elect to just pay the fine, based on that income, would be \$124.80 if they are the only person earning income in that household.

This legislation does not help the average person who did not have healthcare coverage before. It just puts a greater burden on them.

[Applause].

[The prepared statement of Ms. Little follows:]

Small Business Field Hearing Testimony for Jean Simpson Personnel Services

The recent Affordable Care Act has impacted our business greatly in numerous ways as well as our customers that we provide staffing for in a negative manner by the numerous extra costs it forces our company to bear along with our customers. Keeping up with all of the information that has been changing and evolving as the legislation concerning all of the Obamacare regulations is revealed has required us to create a 40 + week position to do so. There are so many variables with the legislation it makes it extremely difficult and confusing to keep up with and to lay out a doable plan for tracking. Also to have in place some sort of checks and balances to prevent employees from slipping through the cracks where there are gray areas. It is all confusing for us, which makes it very difficult to explain to our employees which are primarily made up of the blue collar working class, that mostly barely have a high school education. In the staffing business an employee's status can be ever changing. So keeping up with whether an employee is a variable, non-variable, Part time, or a seasonal employee when it can change repeatedly throughout their duration with us as an employee is a huge challenge and takes constant monitoring. You have measurement periods to track, Administrative periods, stability periods, and also breaks in service that all have to be monitored.

One of the most confusing things that is a huge part of this legislation is calculating what is considered your "FTE's" (Full Time Equivalent) employees. Most businesses "assume" they are safe because they have "part time" workers. But in all actuality if a company has enough "part time" workers they may be vulnerable to a fine due to the way that an Employer's FTE's are actually figured. They are figured on hours worked, not necessarily the "number" of employees you employ. The calculations can be overwhelming.

In the staffing business, we do not always know if a person is going to be working 30+ hours per week. Employees, as part of their continuing employment, can reject assignments, typically work 40 hours per week on assignments of less than 13 weeks, and typically have periods where no assignments are available. We have anywhere from 600-800 employees on our payroll on a weekly basis, not always the same employees. Someone has to track all of this. Very little easily understood information and/or guidelines have been provided along with this legislation to employers. We have to figure out our own tracking methods and hope that we are able to provide all of the information that is to be required when it comes time to report all of this. Which will be a lot more hours that someone within our company will have to spend to compile. We are offering a wellness plan which is what gets us over the "A" tax. This only leaves us vulnerable to the "B" tax if someone actually qualifies and receives a subsidy. We have been forced to learn, know and understand healthcare insurance. We also have to allow time to explain to our employees the insurance offered to them, when their main concern is primarily to find employment. The wellness plan that we offer costs \$65.28 per month for an employee only. So a person earning \$8.00 per hour would have to work a little over 8 hours to pay for this before they are able to earn any money to provide for their self. This is a total of \$783.36 per year, which is a much greater amount than what someone's "wellness" visits should be. When if they elect to just pay the fine, based on that income, would be \$124.80. (If they are the only person earning income in that household.)

This legislation does not help the average people who did not have healthcare coverage before, it puts a greater burden on them.

Brenda Little
Healthcare Administrator
Jean Simpson Personnel Services, Inc.

Chairman VITTER. Thank you. Thanks to all of you again for your testimony and for being here. You offered a real direct small business perspective, so I really appreciate that. I wanted to explore a few important issues that most, if not all, of you touched on, but explore it a little more. One is cost. I think broad brush, the biggest problem we are seeing as a result of ObamaCare is the promise was it's going to drive costs down. And basically it's driving costs up, even more than they were already going. So it hadn't solved that problem. It made it worse in my opinion. It's not just my opinion. It's a lot of studies that bear that out. One study, a September 2014 study by the American Action Forum, reported that Louisiana businesses experienced an average premium increase of 9% as a result of ObamaCare requirements. I'm just curious if each of you could react, some of you mentioned figures, what your experience is compared to, say, 9% average increase.

Mr. SCRUGGS. According to my numbers, mine is 50 percent. It doubled. It's a 100% increase. We went from 449,000 to 899,000. I think the most difficult thing in watching is, you know, it's great that we cover more employees. We're glad to see more employees have health insurance, but nobody is controlling the cost of the healthcare. No one is controlling or mandating limitations from like a United Healthcare or a Blue Cross on what the premiums could be, so having the mandate of having to offer the health insurance is one thing, but giving somebody an open book on the other hand and not controlling them at all, that's what makes it very unfair to small businesses.

Chairman VITTER. Anybody else?

Ms. HEBERT. I would just like to add, on all of the renewals that we've seen under small businesses, if they were with non-profit carriers, seemed to be pretty good renewals. When there was some of the for-profit carriers, now you have rebates. Y'all probably hear about the rebate checks that come back and if you don't spend them for the healthcare [inaudible]. So now we have a situation where sometimes you get the renewal in and, you know, I'm going to ask every time to have a zero renewal because I do that for my clients, so I think I should do that. But if they say, well, what do you think they will take? I never heard that before. I never heard that now we negotiate our rates because they're all worried about what their bottom line is going to be. So this is affecting the carriers. The premium taxes that we all see, they're passing that on to us and they're more taxes coming in every year. The Cadillac tax, I know y'all are working with that in the future, but they just don't stop.

Chairman VITTER. I agree. Anyone else?

Mr. SCRUGGS. Just the straight rates from the health insurance companies. You know, last year we did a short year renewal. Our planning year usually ended in March and then we would have open enrollment, but what we did is we only renewed our healthcare plan until December 31st of this year. We waited to see if there were going to be any changes. So when we renewed for our short year renewal, our premiums came back at an 8% increase. We had this plan for 9 months. When we were renewing in December, they wanted another 12% increase. Why? The evidence wasn't even there. Their expenses compared to the premium that we were

charged over those 9 months, they pocketed about 63 percent compared to what they actually had to pay out for our group. So there is just no control. They've got to control the healthcare providers.

Chairman VITTER. Anybody else? Okay. Another issue that at least some of you touched on and certainly I'm interested in is what is full time, 30-hour week, 40-hour week. Again, for everybody's benefit, there's a rule in ObamaCare that basically for some of these calculations counts full-time workers as anything above 30 hours. So, as a result, to not have that person counted in certain ways under the calculation, a lot of employers have pushed people out of your 40 hours to 29 hours or less—25 hours, the case of you all. If you could elaborate a little bit about what you've seen directly in terms of that impact?

Ms. MARTIN. In my notes I referenced a company with over 1,000 employees, and they have spent the last year, probably longer than a year, going through each and every employee record and cutting those hours back. And these are people that are desperate for work. And so that's been one of the hardest things for these companies to do. There will be no full-time employees.

Chairman VITTER. So you're saying in that case, they did that for all thousand?

Ms. MARTIN. They're doing it. As many as they can do, they're doing. Other companies have called and said our bonuses are sitting there. We don't know what to do. There will be no weekend, overtime, no other work because we just don't know what record-keeping is going to have to be required and we don't know when we're going to have to go to [inaudible] supposed to do. So the uncertainty makes it not able to advance, yet, they are pulling from the employee that's suffering because of this.

Chairman VITTER. So, obviously, for the individual worker, everything else is the same. They're losing a quarter of their paycheck.

Ms. MARTIN. Or their job. And we have a housekeeper that works in our office. She has two jobs. She's worked at a local establishment for 15 years. A valued employee, probably never missed a day, works a second janitorial job with us. Those hours were cut, so she has to find a third job now just to keep up because she doesn't want to get on welfare. She refuses to do that. She's able to work, but she wants to provide for her children. So that's so unfair for someone that's worked somewhere that many years and she knows that it's just not right that she has no choice.

Mr. SCRUGGS. As an employer, that's one of the things that's really difficult. Meaning typically if we hire someone, they're going to work 30, 32 hours a week. And to have to make that decision to back down to 25 hours simply because somebody mandated the cost increase for you, you know, it doesn't seem fair, but at the same time it's not fair to the guests to suffer the increases in our bottom line expenses, you know. And that's painful to watch these people. They are going to work at/or slightly above minimum wage, and what you can only give that person now, you can give them 25 hours, they are going to have to get a second job or maybe get a third job to make ends meet.

Chairman VITTER. Anybody else? Let me ask in a third area. As you all know, in 2014 a temporary small business tax credit was made available for 2 years. So that's small businesses that pro-

vided workers with qualified health coverage under ObamaCare and had 10 or fewer workers would get back up. And for firms with 11 to 25 employees they'd get a lower credit. Firms with more than 25 employees get no credit. Only firms covering 50% or more insurance costs are eligible and all of their coverage is in the credit. It has to be through the SHOP Exchange. At least one of you mentioned that, and basically the difficulty and the cumbersomeness of taking advantage of it. Do any of y'all have direct experience with businesses using that or not using it based upon how that works and how cumbersome or not it is?

Ms. HEBERT. I mentioned it in my speech. I know that companies early on when we found out about the small business tax credits, our companies received information from their carriers that told them that they should talk to their accountants, talk to their CPA's just to see if they're eligible for it. Most of the ones that we talked to, it was very cumbersome what they had to go through for the money they were going to save. And I don't know of any that, you know, did save money. The other thing is the way it was designed then, you know, the rules have changed now that you now have to be a part of the SHOP Exchange. When the tax credits first came out, they could be eligible for it, but now with the SHOP not being fully operated and having choices, which I think the reason for that is so that small companies can have that opportunity to have different carriers like the larger companies do, so now they have to still make the same participation requirements. The rules are basically the same as regular insurance. So it's just not been something—I think more could be done on it. But so far it's not been working for us.

Chairman VITTER. So broad brush, why aren't more choices available under the SHOP Exchange?

Ms. HEBERT. Right.

Chairman VITTER. I'm saying, why aren't there more choices available?

Ms. HEBERT. Well, personally I think some of the carriers, it appeared in the beginning, kind of waited and didn't go out on the Exchange, it didn't offer different things because I think when they—they knew they had to have everybody come in, so there's a risk out there [inaudible] in the beginning. And it may be more choices in another year or so, but right now it's not helping the small employer and those increases still keep coming. So that may be. I don't know what the reason is.

Chairman VITTER. Anybody else? And then another area, you know, a big line in ObamaCare is fewer than 50 employees vs. over that. So, basically over 50, you have the business mandate. Under 50, you don't. So it's a huge difference. Obviously if you are a small business at 45 employees, that gives you an enormous pause about growing in a way that you would otherwise want to do. Any of y'all have direct experience with businesses in that predicament?

Ms. HEBERT. Meaning that they aren't going to expand?

Chairman VITTER. Well, whatever the experience is, do you know of businesses of that size, and how are they reacting to that line being?

Ms. LITTLE. We had some companies that their feedback has been, when they get at that threshold that those people will be let

go. In other words, not go over those hours or they are going to make them go over that hump.

Chairman VITTER. So clearly, what I would have expected is true? That's a big barrier of businesses growing beyond that?

Ms. LITTLE. Exactly.

Chairman VITTER. A lot of businesses would otherwise expand to grow beyond that. This is a big inhibiting factor?

Ms. LITTLE. Huge.

Ms. HEBERT. There's also control rules too where there's people that own different companies and the rules in there say, if you are part of the [inaudible] group and you may have 10 in this company and 35%—

Chairman VITTER. Put it all together.

Ms. LITTLE. Put it all together.

Mr. SCRUGGS. [Inaudible.]

Chairman VITTER. So technically you have four companies, but under the rules you have to count it all as one?

Mr. SCRUGGS. One company.

Chairman VITTER. Thank you all very, very much for coming out. [Applause]. Before you leave, I want to thank our panel again, the small business experts. Let's give them a round of applause. [Applause]. Two more things: If I wasn't able to get to you, your comment or question, and if you haven't already, please give us one of those little forms with your name and contact information. We will follow up. That's number one. Number two, please keep the hand-out we passed out today because, again, that blue column on the left-hand side of the page has all my contact information, including our Web site, which has easy e-mail access, including our Northwest Louisiana office. So please use that to keep in contact with me and my staff on an ongoing basis. And finally, I'm going to be doing plenty more town halls, small business committee field hearings, etc. I always do those around the State on a regular basis. That will certainly continue. And we also do telephone town halls. Many of you have participated in those.

Thank you very much. Thank you for coming today.

[Whereupon, at 3:30 p.m., the hearing was adjourned.]